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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2014-0055; Notice 1]

Harley-Davidson Motor Company, Inc., Receipt of Petition
for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA),
Department of Transportation (DOT).

ACTION: Receipt of Petition.

SUMMARY: Harley-Davidson Motor Company, Inc. (Harley-Davidson) has determined that certain model year (MY) 2009-2014 Harley-Davidson FL Touring family motorcycles do not fully comply with paragraph S6.1.3 of Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, reflective devices, and associated equipment*. Harley-Davidson has filed an appropriate report dated April 7, 2014, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*.

DATES: The closing date for comments on the petition is **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted by any of the following methods:

- Mail: Send comments by mail addressed to: U.S.
Department of Transportation, Docket Operations, M-30,
West Building Ground Floor, Room W12-140, 1200 New
Jersey Avenue, SE, Washington, DC 20590.
- Hand Deliver: Deliver comments by hand to: U.S.
Department of Transportation, Docket Operations, M-30,
West Building Ground Floor, Room W12-140, 1200 New
Jersey Avenue, SE, Washington, DC 20590. The Docket
Section is open on weekdays from 10 am to 5 pm except
Federal Holidays.
- Electronically: Submit comments electronically by:
logging onto the Federal Docket Management System
(FDMS) website at <http://www.regulations.gov/>. Follow
the online instructions for submitting comments.
Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will

be posted without change to <http://www.regulations.gov>, including any personal information provided.

Documents submitted to a docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at <http://www.regulations.gov> by following the online instructions for accessing the dockets. DOT's complete Privacy Act Statement is available for review in the Federal Register published on April 11, 2000, (65 FR 19477-78).

The petition, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published in the Federal Register pursuant to the authority indicated below.

SUPPLEMENTARY INFORMATION:

I. Harley-Davidson's Petition: Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), Harley-Davidson submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of Harley-Davidson's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

II. Vehicles Involved: Affected are approximately 343,680 MY 2009-2014 Harley-Davidson FL Touring family motorcycles manufactured between June 10, 2008 and March 25, 2014.

III. Noncompliance: Harley-Davidson explains that the noncompliance is that the location of the rear reflex reflectors on the subject vehicles are mounted between an average of 0.3" and 0.7" below the required 15" height-above-road surface as required by paragraph S6.1.3 of FMVSS No. 108.

IV. Rule Text: Paragraph S6.1.3.1 of FMVSS No. 108 requires in pertinent part:

S6.1.3.1 Each lamp, reflective device, and item of associated equipment must be securely mounted on a rigid part of the vehicle, other than glazing, that is not designed to be removed except for repair, within the mounting location and height limits as specified in Table I, and in a location where it complies with all applicable photometric requirements, effective projected luminous lens area requirements, and visibility requirements with all obstructions considered.

V. Summary of Harley-Davidson's Analyses: Harley-Davidson stated its belief that the subject noncompliance is inconsequential to motor vehicle safety for the following reasons:

- Harley-Davidson had a third-party conduct testing on the subject motorcycles and reflex reflectors and they exhibited no reduction in conspicuity as compared to compliant vehicles. The independent company tested five test heights, for a test range of 11"-15" height above-road surface, and all five tests far exceeded the minimum required values at each of the 10 test points specified in Table XVI. Due to the substantial safety margin designed into these reflex reflectors, photometry remained well above the minimums even when mounted a full 4" inches below the minimum mounting height.
- Harley-Davidson believes that the lower mounting height of these reflectors may actually increase conspicuity and motor vehicle safety compared to fully compliant (higher mounted) reflectors.
- Harley-Davidson notes that the United Nations ECE regulations specify a minimum mounting height of 9.84" (240mm). And further notes that in one study of daytime side vehicle conspicuity of motorcycles, NHTSA's researchers concluded that the mounting height of the side reflex reflectors (12 inches vs 15 inches) was an "insignificant" factor for vehicle identification distance.

- Harley-Davidson further states that under FMVSS No. 108, tail lamps and license plate lamps on motorcycles are required to be illuminated whenever the headlamp is activated. And that since all Harley-Davidson models are equipped with automatic headlights on (AHO) functionality, the headlamps and tail lamps are automatically illuminated when the ignition is in the on position, thus providing conspicuity during daylight and darkness while the motorcycle is operating.

Harley-Davidson also made reference to a withdrawal of rulemaking regarding a lower height for reflex reflectors.

Harley-Davidson has additionally informed NHTSA that it has corrected the noncompliance so that all future production motorcycles will comply with FMVSS No. 108.

In summation, Harley-Davidson believes that the described noncompliance of the subject vehicles is inconsequential to motor vehicle safety, and that its petition, to exempt Harley-Davidson from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in

sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject motorcycles that Harley-Davidson no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Harley-Davidson notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8).

Jeffrey M. Giuseppe, Acting
Director,
Office of Vehicle Safety Compliance.

Billing Code: 4910-59-P

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